

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE
Meeting Minutes from July 14, 2003
Sacramento, California**

MEMBERS

Jerry Gonce, Chair
Richard Youngblood
Fred Kosmo
Theodore Loewen
Jim Russell
Gene Etheridge
Edith Clark
Jerry Gonce
Gail Hayden
Lynn Bagley
Harry Brown-Hiegel
Greta Dunlap
Howell Tumlin
Mary Lou Weiss
Scott Hudson
Karol Jo Kappel

ALTERNATES/NON VOTING

Joel Kiff
Fred Delgado
Jane Allen
Mary Hillebrecht
Rick Landon

CDFA

Janice Price
Susan Shelton
Mike Villeneva

GUESTS

Randii MacNear
William Bianchi
John Silveira
Gary Kunkel, Tulare Ag Commissioner
Charlotte Eaton
Mary Lee Welch, CA Dept. of Aging
Patty Blomberg, WIC
Michele van Eykes, WIC
Mike Villaneva

MEMBERS EXCUSED

Scott Beylik
Cato Fiksdal

ITEM 1: ROLL CALL

Jerry Gonce called the meeting to order at 10:00 A.M. Susan Shelton called roll and a quorum was established. Jane Allen led the pledge of allegiance to the flag.

ITEM 1A: INTRODUCTION OF GUESTS

Introductions were made.

ITEM 2: APPROVAL OF MAY 12, 2003, MEETING MINUTES

MOTION: Fred Kosmo moved to approve the minutes without corrections. Harry Brown-Hiegel seconded. The motion passed unanimously.

ITEM 3: APPROVAL OF AGENDA

Mary Hillebrecht requested that items 5b and 5d be carried over to the next meeting. Jerry Gonce requested that only the part of 5h that concerns discussing

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recommendations with Dan Best, be carried over to the next meeting. Randii MacNear requested that item 5i be carried over to the next meeting.

As items 5e and 5f are guest presentations, Janice Price asked that they be presented at 1:00 P.M., regardless of where the committee is on the agenda at that time.

MOTION: Mary Lou Weiss moved to approve the agenda as amended. Edith Clark seconded. The motion passed unanimously.

ITEM 4: REPORTS

Jerry Gonce announced that the reports listed in items 4a – 4d are enclosed in the packet and asked if anyone had questions for Janice Price regarding these.

A. CFM REMITTANCE FEE AND DELINQUENT MARKET REPORT: 1ST QTR., 2003

Jim Russell asked Janice if she had the figures showing how much the listed markets were delinquent last year. Janice stated that the delinquent amounts for each market vary quarter-by-quarter and to research that information may not be time efficient. An inquiry was made if there were any delinquencies carried over from last year. Janice was able to report that all were in good standing for 2002. Janice also pointed out that the amount that is being collected each year is climbing.

B. CDFA BUDGET REPORTS: APRIL AND MAY 2003

No further discussion or questions.

C. EMERGENCY RELIEF REGULATION UPDATE

No further discussion or questions.

D. CDFA TASK REPORT

No further discussion or questions.

E. AGRICULTURAL COMMISSIONERS

Scott Hudson commended Jerry Gonce for attending the Standardization and Statistics Committee Meeting. Jerry's comments were well received and thanks were given for the opportunity he took to represent this committee at the Agricultural Commissioners' Meeting. Scott further reported that Cato Fiksdal was appointed as president of the California Agricultural Commissioners and Sealers Association (CACASA) at their Spring Leadership Conference. Gary Kunkel was appointed as the chair for the Standardization and Statistics Committee overseeing Direct Marketing for CACASA .

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F. LONG RANGE PLANNING SUB-COMMITTEE – JANE ALLEN, CHAIR

Jane Allen reported that the committee made the changes in the survey that were suggested at the last meeting, and have since forwarded it to Gail and Doug Hayden for reformatting. The survey is still in the formatting stage.

G. FINANCE SUB-COMMITTEE – SCOTT BEYLIK, CHAIR

This item was not discussed as Scott Beylik was unable to attend this meeting.

H. NURSERY STOCK SUB-COMMITTEE – MARY LOU WEISS, CHAIR

Nothing to report at this time.

I. MARKET STANDARDS/MANAGER CERTIFICATION SUB-COMMITTEE – HOWELL TUMLIN, CHAIR

Jerry Gonce reminded the committee that it was voted upon last session to combine the sub-committees of the Market Standards and the Market Manager Certification sub-committees.

J. ENFORCEMENT/MATRIX SUB-COMMITTEE – SCOTT HUDSON, CHAIR

Jerry Gonce reminded the committee that it was voted upon to combine the Enforcement and the Matrix Sub-Committees, creating the above sub-committee.

K. CHAIRMAN'S REPORT

Jerry Gonce reported that he met with Steve Mauch, Rick Jensen and Janice Price regarding procedural issues. It was learned that when a request is submitted to Secretary Lyons that request first goes through a chain of command staff review and recommendation.

California Department of Food and Agriculture (CDFA) will be more diligent to flag information on legislation and forward to this committee. Jerry wanted to let Janice's bosses know what a good job she is doing, so he passed that information along.

Also discussed in this meeting was CACASA's Standards and Statistics Committee's request that Nursery Stock and Cut Flowers be decertified. Steve Mauch stated that the Secretary would not act on the CACASA request without consulting with the industry and staff.

ITEM 5: COMMITTEE BUSINESS

A. RECOMMENDATIONS – LONG RANGE PLANNING SUB-COMMITTEE – JANE ALLEN

Regarding the surveys of the Certified Producers, the Market Managers, and the Agricultural Commissioners, Jane Allen stated they were sent to Gail Hayden for reformatting. Jane does have a draft of the survey cover letter that will be signed by Jerry Gonce, she will forward that to him. Gail stated that the surveys should be complete within the next week to ten days.

B. DEFINITION – CERTIFIED PRODUCER AS CFM OPERATOR

Held over for future meeting.

C. SOUTHLAND PROPOSAL – DEFINITION OF CFM

The Department recommends against the adoption of Southland's proposal because CDFA's authority does not extend outside the market, therefore, CDFA does not have the jurisdiction to limit the areas outside the farmers' market. But the laws do authorize CDFA to limit the number of agricultural vendors within the CFM. Food and Agricultural Code Section 47001 authorizes CDFA to propose regulations that "encourage the direct sales of agricultural products" from farmers at CFMs.

If there is a lawful reason for limiting the numbers of non-agricultural vendors and the administrative record supports that reason, then a regulation proposing to limit the numbers of non-certified vendors operating within the market could be maintained. According to Southland's proposal, the primary reason offered by Southland in support of adoption of the limitation is that "as the percentage of non-ag increases, the non-ag vendor sales are made at the detriment of the sales of certified growers".

Although CFM laws to adopt regulations to "encourage" direct marketing are broad, protecting farmers from competition may not be one of them. There is a difference between encouraging farmers' sales and discouraging other sellers.

If a limit were to be adopted under enabling statutory authority, it would also have to be supported by a rational reason and substantive evidence in the record, in addition, to supporting the limitation of 25%. There must be a reason for whatever is adopted as the limit.

CFMAC asked for a copy of CDFA's legal opinion on the matter. Janice stated that it cannot be released because it is an attorney/client privilege document. It was stated that a synopsis would be included in the meeting minutes.

Mary Hillebrecht brought up the issues associated with the definition of what is and is not within the boundaries of the market. Howell Tumlin agreed with Jerry Gonce that the committee should respond to the Department. Howell stated the proposal would help enable market managers to supply room for both agricultural and non-agricultural products, and would help the regulations keep up with the changing industry.

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Gail Hayden suggested that the legal department may be misinterpreting the problem. She stated the issue is not so much the 25% versus 75%, it is the need for a clear understanding and protection of the label of "Certified Farmers' Market". Currently, there are many gaps in the law.

MOTION: Howell Tumlin moved that the CFMAC make a formal request to CDFA, asking that their legal analysis/opinion of the Southland Proposal be presented to them and then forwarded to the Market Standards Subcommittee for the preparation of a counter response. Edith Clark seconded, motion passed with one no vote and one abstention. Jerry would like Janice's help with the wording on this request.

D. CFMAC POLICIES AND PROCEDURES – MARY HILLEBRECHT

Held over for future meeting.

E. WIC NUTRITION PROGRAM PRESENTATION – MICHELE VAN EYKEN, DHS

Michelle van Eyken is currently the Acting Director of the State's WIC program. She first wanted to let everyone know how key the partnership with the Certified Farmers' Markets has been to WIC. It is the only area in WIC that offers fresh fruit and vegetables to their clients.

The California WIC FMNP program serves 500,000 women and children, which is only about 40% of the 1.28 million eligible participants. Currently 64 local agencies distribute FMNP coupons. WIC FMNP authorizes more than 2,800 farmers at 281 CFM in 52 counties. 76% of all CFM's regulated by the CDFA realized \$2,427,199 dollars in income from the WIC FMNP in 2002.

Michelle explained the challenges that are being presented with funding for this program. This specific program requires matching funds – the Federal Government matches \$.40 to every \$.30 donated from other sources.

As some of the past programs and entities that have helped with their matching funds will not be available in the coming year, WIC is looking at different avenues for matching funds. Michelle asked the committee for ideas.

Ted Loewen asked if in-kind donations would count towards the match, Michelle answered that they would. Various ideas were discussed. Randii MacNear asked if Michelle could get the committee members a list of some of the things that would count toward the matching money. Randii stated most likely there are many things the markets are currently doing which could be counted. Michelle will get a list together to give to the committee.

F. FOOD SAFETY – MIKE VILLANEVA, CDFA

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Mike Villaneva presented reasons why it is important to apply good agricultural practices to ensure food safety. He stated that growers and sellers should take a proactive role in these areas to keep potential contaminants from the items sold in markets. Being proactive creates prevention, which is preferred over regulations.

It was suggested to keep in mind that contamination could occur anywhere along the food chain. Water quality, product handling, manure, biosolids, sanitation, and transportation are all examples of things that should be kept in mind for product safety.

G. SUB-COMMITTEE APOINTMENTS – JERRY GONCE

Jerry Gonce stated that Howell Tumlin is chair of the combined Standards For Certified Farmers' Markets and the Market Manager Certification Subcommittees.

MOTION: Howell Tumlin moved that the Market Standards/Market Manager Certification Subcommittee be set up as follows: Howell Tumlin as chair, Edith Clark, Karol Jo Kappel, Joel Kiff, Donna Sherrill, Howell Tumlin, Gene Etheridge, and Mary Lou Weiss as members. Edith Clark seconded, motion passed unanimously.

MOTION: Jim Russell moved that the Non-Certifiable Agricultural Products Subcommittee be set up as follows: Jim Russell as chair, Laura Avery, Leslie Starus, Rusty Hall, Randii MacNear, Mary Hillebrecht, and Karol Jo Kappel as members. Mary Lou Weiss seconded, passed with Gail Hayden opposed.

MOTION: Mary Lou Weiss moved that the Finance Subcommittee be set up as follows, Scott Beylik as chair, Lynn Bagley, Karol Jo Kappel, Ted Loewen, and Scott Hudson as members. Edith Clark seconded, motion passed unanimously.

MOTION: Mary Lou Weiss moved that the Long Range Planning Subcommittee be set up as follows: Jane Allen, chair; Lynn Bagley, Greta Dunlap, Fred Kosmo, Ted Loewen, and Howell Tumlin as members. Edith Clark seconded, motion passed unanimously.

MOTION: Mary Lou Weiss moved that the Nursery Stock/Cut Flower Subcommittee be set up as follows: Mary Lou Weiss, chair; Mary Hillebrecht, Jerry Gonce, Phil McGrath, and Scott Hudson as members. Edith Clark seconded, motion passed unanimously.

MOTION: Mary Lou Weiss moved that the Enforcement/Matrix Subcommittee be set up as follows: Scott Hudson, chair; Scott Beylik, Edith Clark, Gail Hayden, Earl McPhail, and Mary Hillebrecht as members. Edith Clark seconded, motion passed unanimously. Jerry Gonce stated that the above committee chairs will be listed on future agendas for reporting. He also stated, that there will need to be accountability, if there is nothing to report.

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MOTION: Jerry Gonce moved that Gary Kunkel be added to the Nursery Stock/Cut Flower Subcommittee. Mary Lou Weiss seconded, motion passed unanimously.

H. RECOMMENDATIONS – CALIFORNIA FEDERATION OF CERTIFIED FARMERS' MARKETS

Jerry Gonce began the discussion regarding the five points raised in the letter from the California Federation of Certified Farmers' Markets. These points are actions that the Federation is currently pursuing. Jerry is requesting that the committee respond formally to the Federation regarding these points. He further stated that the Federation and the CFMAC should work more closely in the future.

Point 1 – Load Lists: Many members expressed their support of load lists. Jim Russell stated that if you suspect a grower, the load list is the best place to look for what he/she has been selling for the last week/month/year. Jane Allen and Jim both agreed that the list is beneficial to County Ag Inspectors. Jane also brought up the help it is to market managers in planning for a good product mix. Rick Landon pointed out that it is a good tool if you suspect that the grower is selling the same things that he is buying.

Randii MacNear brought up the issue that a variety of forms are being used as load lists, there is not a standard form that is used industry wide. Scott Hudson volunteered to have the Enforcement/Matrix Subcommittee take the responsibility of creating a standard form. He requested that current forms be sent to him, so that he can use them as a starting point. John Silveira stated that if it could mirror the certificate it would be very helpful to the County Agricultural Commissioners.

Point 2 – CPC Issue and Expiration Date Related to Harvest/Marketing Season: Scott asked for clarification on if they want commodity by commodity basis or by whole certificate. Janice Price stated that certificates are not issued for the same time period from county to county, some are based on a calendar year and some are based on the commodity of the certificate (such as a cherry certificate). Ted stated that on some crops it would not make a difference, such as year round crops; however, for seasonal items the issue related to certificates may be difficult. Discussion indicated that the committee believed this was unnecessary, and was opposed to this point.

Point 3 – Requirement to List Varieties on CPC: Scott Hudson stated that the requirement is already there though it may or may not be followed. Janice Price stated that the regulations (CCR 1392.7) state it should be considered, but not required. Scott Hudson expressed that from an enforcement standpoint it could be difficult. The list of varieties could be very long. Discussion showed that the committee was generally supportive of adding the word "require".

Point 4 - No Penalty for Failure to Post CPC: Rick Landon proposed the question, how can you enforce a violation that has no penalty? Harry Brown-Hiegel felt concerned about losing the penalty as it is the one universal identifier to discern a certified farmers

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market from a road stand. Discussion showed that the committee was generally opposed to this point.

Point 5 – Standardized Certificate for Market and Producers: Edith Clark stated that CDFA is currently working on this issue. Discussion showed that the committee was generally opposed to this point as it is written.

MOTION: Mary Lou Weiss moved that CFMAC send a letter back to the Federation with our replies on all five of these items and wait for a response back from them. Jerry will draft a letter for this purpose covering the following points: Point 1 is referred to Scott's subcommittee to review and respond with some ideas; on Point 2, the committee was opposed; on Point 3, the committee was in support of the word "require" being used; and on Point 4 and 5, the committee was opposed. Greta seconded, the motion passed unanimously.

I. CFMAC'S RELATIONSHIP WITH FEDERATION – RANDII MAC NEAR

Held over for future meeting.

J. IMPROVING COMMUNICATION PROPOSAL – JOEL KIFF

Joel Kiff made a proposal that the CFMAC summarize a specific item and send it to industry if they need feedback and/or input.

It was decided that no action would be taken at this time; however, it would be kept in mind as issues evolve.

K. AB 1726 – JANICE PRICE

No new legislative activity to report.

L. SB 934 – JANICE PRICE

No new legislative activity to report.

ITEM 6: MEMBER ROUNDTABLE DISCUSSION – JERRY GONCE

Howell Tumlin expressed an interest to discuss the previously proposed issue of increasing fees to one dollar. What arguments support this increase? Will it be done? If so, when, how, why?

MOTION: Howell Tumlin moved to refer this issue to the Finance Subcommittee to prepare a one-page analysis and then report back to this committee. Mary Lou Weiss seconded, motion passed unanimously.

ITEM 7: NEXT MEETING SEPTEMBER 8, 2003 – TORRANCE

Mary Lou Weiss will host this meeting.

ITEM 8: NEW AGENDA ITEMS – JERRY GONCE

Jerry Gonce suggested putting on the next agenda a discussion to clarify the definition of a Major Certified Farmers' Market Association. Jerry volunteered to put together a memo covering the issue.

Jerry Gonce followed up on Howell Tumlin's suggestion that nothing be added to the business section of the agenda unless there is an attachment providing a proposal, recommendation, and/or additional information. Jim Russell proposed that if there is an item for business that has no attachment it must be approved by Jerry Gonce prior to being put under the business section.

Janice Price requested that all agenda item attachments be sent to her by August 25, 2003 to be included with the agenda for the next meeting.

ITEM 9: ADJOURNMENT

MOTION: Fred Kosmo moved that the meeting be adjourned. Lynn Bagley seconded, the motion was unanimously approved. The meeting was adjourned at 2:32 P.M.

Respectfully submitted by:

Janice Price, Supervisor
Inspection and Compliance
Inspection Services